

## Office of Personnel Management

## § 831.502

the balance while still an employee or Member, or after separation.

(b) A person entitled to payment of lump-sum benefits under the CSRS order for precedence set forth in section 8342(c) of title 5, United States Code, is entitled to payment of the balance, if any, on the death of—

- (1) An employee or Member;
- (2) A separated employee or Member who has not retired;
- (3) A retiree, unless a survivor benefit is payable based on an election under § 831.407; or
- (4) A person receiving a survivor annuity based on voluntary contributions.

### § 831.407 Purchase of additional annuity.

(a) At the time of retirement CSRS (or under FERS, if transferred from CSRS), a person may use the balance of a voluntary contribution account to purchase one of the following types of additional annuity:

- (1) Annuity without survivor benefit; or
- (2) Reduced annuity payable during the life of the employee or Member with one-half of the reduced annuity to be payable after his or her death to a person, named at time of retirement, during the life of the named person.

(b) Any natural person may be designated as survivor under paragraph (a)(2) of this section.

(c) If the applicant for retirement elects an annuity without survivor benefit, each \$100 credited to his or her voluntary contribution account, including interest, purchases an additional annuity at the rate of \$7 per year, plus 20 cents for each full year, if any, he or she is over age 55 at date of retirement.

(d) If the applicant for retirement elects an annuity with survivor benefit, each \$100 credited to his or her voluntary contribution account, including interest, purchases an additional annuity at the rate of \$7 per year, plus 20 cents for each full year, if any, he or she is over age 55 at date of retirement, multiplied by the following percentage:

- (1) Ninety percent of such amount if the named person is the same age or older than the applicant for retire-

ment, or is less than 5 years younger than the applicant for retirement;

(2) Eighty-five percent if the named person is 5 but less than 10 years younger;

(3) Eighty percent if the named person is 10 but less than 15 years younger;

(4) Seventy-five percent if the named person is 15 but less than 20 years younger;

(5) Seventy percent if the named person is 20 but less than 25 years younger;

(6) Sixty-five percent if the named person is 25 but less than 30 years younger; and

(7) Sixty percent if the named person is 30 or more years younger.

## Subpart E—Eligibility for Retirement

### § 831.501 Time for filing application.

An employee or Member who is eligible for retirement must file a retirement application with his or her agency. A former employee or Member who is eligible for retirement must file a retirement application with OPM. The application should not be filed more than 60 days before becoming eligible for benefits. If the application is for disability retirement, the applicant and the employing agency should refer to subpart L of this part. If the application is for phased retirement status, the employee and the employing agency should refer to subpart Q of this part.

[79 FR 46619, Aug. 8, 2014]

### § 831.502 Automatic separation; exemption.

(a) When an employee meets the requirements for age retirement on any day within a month, he is subject to automatic separation at the end of that month. The department or agency shall notify the employee of the automatic separation at least 60 days in advance of the separation. If the department or agency fails through error to give timely notice, the employee may not be separated without his consent until the end of the month in which the notice expires.

(b) The head of the agency, when in his or her judgment the public interest

so requires, may exempt a law enforcement officer, firefighter, nuclear materials courier, or customs and border protection officer from automatic separation until that employee becomes 60 years of age.

(c) The Secretary of Transportation and the Secretary of Defense, under such regulations as each may prescribe, may exempt an air traffic controller having exceptional skills and experience as a controller from automatic separation until that controller becomes 61 years of age.

(d) When a department or agency lacks authority and wishes to secure an exemption from automatic separation for one of its employees other than a Presidential appointee, beyond the age(s) provided by statute, i.e., age 60 for a law enforcement officer, firefighter, nuclear materials courier, or customs and border protection officer, and age 61 for an air traffic controller, the department or agency head shall submit a recommendation to that effect to OPM.

(1) The recommendation shall contain:

(i) A statement that the employee is willing to remain in service;

(ii) A statement of facts tending to establish that his/her retention would be in the public interest;

(iii) The period for which the exemption is desired, which period may not exceed 1 year; and,

(iv) The reasons why the simpler method of retiring the employee and immediately reemploying him or her is not being used.

(2) The recommendation shall be accompanied by a medical certificate showing the physical fitness of the employee to perform his or her work.

(e) OPM may approve an exemption only before the automatic separation date applicable to the employee. For this reason, the department or agency shall forward the recommendation to OPM at least 30 days before this separation date.

[76 FR 41997, July 18, 2011]

**§ 831.503 Retirement based on involuntary separation.**

(a) *General.* An employee who would otherwise be eligible for retirement based on involuntary separation from

the service is not entitled to an annuity under section 8336(d)(1) of title 5, United States Code, if the employee has declined a reasonable offer of another position.

(b) *Criteria for reasonable offer.* For the purposes of determining entitlement to annuity based on such involuntary separation, the offer of a position must meet all of the following conditions to be considered a reasonable offer:

(1) The offer must be made in writing;

(2) The employee must meet established qualification requirements; and

(3) The offered position must be—

(i) In the employee's agency, including an agency to which the employee with his or her function is transferred in a transfer of functions between agencies;

(ii) Within the employee's commuting area as defined in § 831.1202 of this part, unless geographic mobility is a condition of the employee's employment;

(iii) Of the same tenure and work schedule; and

(iv) Not lower than the equivalent of two grades or pay levels below the employee's current grade or pay level, without consideration of the employee's eligibility to retain his or her current grade or pay under part 536 of this chapter or other authority. In movements between pay schedules or pay systems, the comparison rate of the grade or pay level that is two grades below that of the current position will be compared with the comparison rate of the grade or pay level of the offered position. For this purpose, "comparison rate" has the meaning given that term in § 536.103 of this chapter, except paragraph (2) of that definition should be used for the purpose of comparing grade or levels of work in making reasonable offer determinations in all situations not covered by paragraph (1) of that definition.

[48 FR 38786, Aug. 26, 1983. Redesignated and amended at 58 FR 49179, Sept. 22, 1993; 70 FR 31315, May 31, 2005; 73 FR 66156, Nov. 7, 2008]

**Subpart F—Survivor Annuities**

SOURCE: 50 FR 20070, May 13, 1985, unless otherwise noted.